

1 EDMUND G. BROWN JR. Attorney General of California Soard of Vocational Nursing 2 GLORIA BARRIOS and Psychiatric Technicians Supervising Deputy Attorney General 3 MICHEL W. VALENTINE Deputy Attorney General 4 State Bar No. 153078 300 So. Spring Street, Suite 1702 5 Los Angeles, CA 90013 Telephone: (213) 897-1034 6 Facsimile: (213) 897-2804 Attorneys for Complainant 7 8 BEFORE THE BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS 9 DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA 10 11 In the Matter of the Accusation Against: Case No. PT-2007-837 12 VICTOR ZERMENO 15204 Shadybend Drive, Unit 24 13 Hacienda Heights, CA 91745 ACCUSATION 14 Psychiatric Technician License No. PT 33128 15 Respondent. 16 17 Complainant alleges: 18 **PARTIES** 19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in 20 her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric 21 Technicians, Department of Consumer Affairs (Board). 22 2. On or about March 17, 2006, the Board issued Psychiatric Technician License 23 No. PT 33128 to Victor Zermeno (Respondent). The Psychiatric Technician License was in full 24 force and effect at all times relevant to the charges brought herein and will expire on November 25 30, 2011, unless renewed. 26 **JURISDICTION** 27 3. This Accusation is brought before the Board under the authority of the following 28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

LA2009604658 Accusation

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STATUTORY PROVISIONS

- 4. Section 118, subdivision (b), provides that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under section 4545, the Board may renew an expired license at any time within four (4) years after the expiration.
- 5. Section 490 provides that the Board may suspend or revoke a license when it finds that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of a licensed psychiatric technician.
- 6. Section 4520 provides, in pertinent part, that the Board may discipline any licensed psychiatric technician for any reason provided in Article 3 (commencing with section 4520) of the Psychiatric Technicians Law (Code § 4500, et. seq.)
 - 7. Section 4521 states, in pertinent part:

"The board may suspend or revoke a license issued under this chapter [the Psychiatric Technicians Law (Bus. & Prof Code § 4500, et seq.)] for any of the following reasons:

- "(a) Unprofessional conduct,
- "(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or terms of this chapter.

COST RECOVERY

8. Section 125.3 provides that a Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct / Violation of Psychiatric Technicians Law)

- 9. Respondent is subject to disciplinary action under section 4521, subdivisions (a)(1) in that Respondent committed acts of unprofessional conduct and which includes, but is not limited to, any of the following:
- (1) Incompentence or gross negligence in carrying out usual Psychiatric Technician functions. The conduct that supports this allegation is based upon the following actions

committed by Respondent:

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On or about August 27, 2006, Respondent forcefully pushed a patient (Crystal) away causing her to slide 15 feet and strike her head on a table. Respondent also made rude comments to patients who came to Crystal's assistance. Respondent also failed to assess the injuries of a male client who had reportedly been kicked in the head. Respondent also did not assess the patient that fell.

DISCIPLINE CONSIDERATIONS

Respondent appealed an adverse action filed against him concerning the above described conduct by his employer, Metropolitan State Hospital. The decision on Appeal of Case No. 07-2295 following an administrative hearing, the court believed Respondent did forcefully push a patient, by the name of Crystal, causing her to slide 15 feet and strike her head on a table. The court also believed Respondent made rude comments to patients who came to Crystal's assistance. The court concluded Respondent violated Government Code Section 19572 (d) inexcusable neglect of duty (the duty to properly care for patients), (m) discourteous treatment, and (t) other failure of good behavior. The charge of willful disobedience was stricken. The court upheld the discipline imposed on Respondent as warranted.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

- 1. Revoking or suspending Psychiatric Technician License No. PT 33128, issued to Respondent;
- Ordering Respondent to pay the Board the reasonable costs of the investigation and 2. enforcement of this case, pursuant to section 125.3;
 - Taking such other and further action as deemed necessary and proper. 3.

DATED: March 30, 2011

TERESA BELLO-JONES, J.D., M.S.N., R.N.

Executive Officer

Board of Vocational Nursing and Psychiatric Technicians

Department of Consumer Affairs

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